

MINUTES of the Special Meeting of the City
Council of the City of Rye held in City Hall on May 29,
2000 at 9:00 A.M.

PRESENT:

STEVEN OTIS, Mayor
CAROLYN CUNNINGHAM
ROBERTA DOWNING
ROBERT H. HUTCHINGS
ROSAMOND LARR
DOUGLAS MCKEAN
ARTHUR STAMPLEMAN
Councilmen

ABSENT:

NONE

1. Pledge of Allegiance

Mayor Otis lead the council in the Pledge of Allegiance.

2. Roll Call

Mayor Otis called the meeting to order; a quorum was present to conduct official city business.

Councilman Hutchings made a motion, seconded by Councilwoman Cunningham, to adjourn into executive session to discuss Home Depot litigation at 9:00 A.M.

The Council reconvened at 9:25 A.M.

3A. Consideration of proposed local law extending and continuing a Moratorium Related to the Use of the City's Rights of Way

Mayor Otis apprised the council that this proposed local law would extend the existing moratorium related to the use of the city's rights-of-way to July 21, 2000.

The Mayor opened the public hearing.

There being no one wishing to address this proposed local law, the Mayor closed the public hearing.

Councilwoman Cunningham made a motion, seconded by Councilman Stampleman, to adopt the following local law:

**CITY OF RYE
LOCAL LAW NO. 4-00**

**A local law amending Chapter 167,
Streets and Sidewalks,
of the Rye City Code Section 167-15,
by extending and continuing a
Moratorium Related to the Use of
The City's Rights-of-Way**

Be it enacted by the Council of the City of Rye as follows:

Section 1. Chapter 167, Streets and Sidewalks, of the Rye City Code, Section 167-15 creating a Moratorium Related to the Use of the City's Rights-of-Way, is hereby amended to read as follows:

§ 167-15. Moratorium Related to the Use of the City's Rights-of-Way.

There is hereby enacted a sixty (60)-day moratorium on the issuance of authorization by the city of Rye on applications for the construction or reconstruction or rebuilding of wireline facilities in the city's rights-of-way; and the moratorium previously enacted is continued and extended for a period beginning June 9, 2000 and continuing until July 21, 2000.

Section 2. This law shall take effect immediately on filing in the office of the Secretary of State.

ROLL CALL:

AYES: Mayor Otis, Councilmen Cunningham, Downing,
Hutchings, Larr, McKean, and Stampleman

NAYS: None

ABSENT: None

The local law was adopted.

3B. Consideration of the application of NorthEast Optic Network, Inc. ("NEON") for a special use permit to install approximately 5,500 linear feet of conduit and fiber optic cable under the streets of Rye

Mayor Otis acknowledged the May 24, 2000 communication from NorthEast Optic Network, Inc. ("NEON") requesting the necessary review to undertake construction required within the City of Rye in an effort to complete the network which runs from Maine to New York City. The Mayor said NEON has requested that the City Council grant a hardship exception. The Mayor commented that the basis for processing the application was not hardship, but rather the existing provisions in the moratorium law that provided for processing applications during the moratorium.

Councilman Hutchings emphasized that accepting this application is for processing its application only.

Councilwoman Cunningham made a motion, seconded by Councilman Stampleman and unanimously carried, to authorize Interim City Manager Christopher Bradbury to refer NorthEast Optic Network, Inc., ("NEON") application to the appropriate city staff and if necessary, to Monroe Telecom Associates for review and comments.

ROLL CALL:

AYES: Mayor Otis, Councilmen Cunningham, Downing,
Hutchings, Larr, McKean, and Stampleman

NAYS: None

ABSENT: None

The motion carried.

4. Discussion of proposed stadium lights at the Nugent Stadium at Rye High School

The Mayor noted that this particular agenda item was not publicly noticed nor part of the agenda.

Councilwoman Downing referred to her May 28, 2000 memo which strongly urged the council to make a public statement on its position on the proposed stadium lights at Rye High School. She requested that her entire memo be made part of the public record.

May 28, 2000

To: Hon. Mayor, City Council Members

From: Bonnie Downing

Re: Lights at Nugent Field

“Dear Colleagues:

‘The Council must consider making an immediate public statement opposing the proposed lighting at Nugent Field. The statement should go beyond the sentiments expressed at the April 8th joint meeting of the Council and the Board of Education, which I could not attend.

‘I am not alone in being besieged by a plethora of phone calls from Rye citizens on the proposed installation. Most callers are asking that the Council take a proactive public position in regard to the impact such lighting would have. Their concerns include aesthetics, noise and light pollution, substance abuse, impact on neighbors, traffic, ongoing expenses, etc., all of which have been eloquently stated in the many letters we have received and in the summary arguments made in Drew Shea’s letter of May 21.

‘As a 35 year resident of Rye, I have most of all enjoyed its unique, pastoral, old-worldly, historically rich environment. I have cherished its architecture, lived in a house over a century old. My children have all attended schools in Rye, played on its athletic fields, celebrated graduations on Nugent Field.

‘Rye is a special place. We want to keep it that way, which for me means, cherishing the environment, protecting it from encroachment, while actively advocating for changes which will benefit the greatest number of people. That is why I joined the City Council - believing that the collective voice has influence and responsibility.

‘Let me share with you why I feel the City Council should address this as a unified body:

- I. The City Council is responsible to the citizens of Rye. While the decision for lights being installed on Nugent Field may be within the jurisdiction of the Board of Education, a decision which affects the area beyond the Board’s purview, is within our jurisdictional powers. The area of impact in regard to traffic, noise levels, safety concerns, light pollution goes well beyond Nugent Field into surrounding residential neighborhoods and the Boston Post Road. **Let us acknowledge that these issues are our responsibility.**

- II. We on the Council, both historically and currently, have taken great pride in the pristine beauty of our community. It was our predecessors' intent to protect that beauty and to preserve the sense of open space and tranquillity. We all ran on political platforms based on "KEEP RYE, RYE". **Let us honor that promise.**
- III. The Council in the past year has been examining the construction of a wall that will be built on the Post Road, across from our historic Village Green. We have rejected proposals of artificial wall surfaces because it demanded the best aesthetic treatment. We want to bury telephone wires so that it might be even more attractive. **Let us continue to advocate strongly for protecting and enhancing the beauty of our city.**
- IV. We are the elected representatives of the people and have a duty to speak out. It is mandatory that we respond. The people have been addressing this with eloquence, passion and fairness and are entitled to our response and to our representation. **Let us do the right thing."**

Councilman McKean apprised the council that the New York State Board of Education realizes the SEQRA process is not its responsibility; the process belongs to the local community. He encouraged the Rye City Board of Education to complete the full SEQRA process, if the school board has determined to accept this gift of lights.

Mayor Otis expressed his appreciation to the public for attending this meeting. He reviewed the concerns that the city expressed about the lights and procedures at the joint meeting held on April 8, 2000, namely:

- the city's suggesting that the Board of Education not try to meet artificial deadlines,
- that the SEQRA process be followed thoroughly, and
- not to delegate parts of the decision to the New York State Department of Education.

Mayor Otis said if the city was in the same position as the school board, the city would opt to purchase fields rather than install lighting.

The Mayor noted that the purpose for this special meeting on Memorial Day was for a ministerial act to extend an existing moratorium. This particular issue on the discussion of lights at the Rye High School was not generally known, not an agenda item, and not publicized as a topic for the meeting. He said this issue could have been addressed at the May 17th council meeting.

Councilwoman Downing stated that she asked that this issue be part of the agenda for the special meeting. She made a motion to schedule a public discussion on this topic of stadium lights for tomorrow, Tuesday, May 30th.

Councilman Hutchings agreed and said it is a good idea to have a public meeting.

Mayor Otis said that the council spoke frankly, was vocal and upfront in its views on this issue at the joint meeting of the City of Rye and the Rye City Board of Education. He said the problem with discussing this issue within hours of the school board vote, is governmentally destabilizing.

Councilman Stampleman requested that his entire letter dated May 26, 2000 to the Rye City Board of Education be made part of the record:

May 26, 2000

Board of Education
Rye City School District
324 Midland Avenue
Rye, New York 10580

“Dear President Morgan and Members of the Board

Re: Proposal to Erect Lights on Nugent Field

‘You may recall that I did not attend the joint Board of Education-City Council meeting on April 8th - I was traveling on vacation then. Accordingly, I did not have an opportunity to express my view on the above subject. In view of its importance, it would be inappropriate for me to remain silent on this particular agenda item.

‘The decision on whether or not to erect such lights is within the purview of the Board of Education, not the City Council. However, inasmuch as a number of serious environmental questions have been raised in connection with this proposal, I recommend that the Board of Education undertake the necessary environmental study before making such a decision. At that time, I and/or others from the City of Rye would be prepared to provide input on those environmental matters. Meanwhile, I can echo comments by others that if the Council had to choose between erecting lights on an existing City field or building an additional field, I would vote for the latter.’”

Sincerely,

Councilman Arthur Stampleman

Cc: Rye City Council

Councilwoman Cunningham agreed with the mayor's position, however, she was sympathetic to Councilwoman Downing. She said the council jurisdictionally has had a clear cut, friendly, and civil way of operating with the school board. Councilwoman Cunningham said she would have difficulty supporting a council statement on this issue at this late date.

Councilwoman Downing strongly urged the council to consider writing an official statement similar to what the planning commission will do. This, she said, is within our jurisdiction and concern. She strongly advocated that the entire council schedule a meeting for tomorrow evening to discuss this matter at length.

Mayor Otis reiterated that there is no mystery on the part of the school board nor the supporters of the school lights, on how the council feels about this issue. The real issue is what the school board will decide. He questioned the significance of council action at this late date. He expressed the feeling that all concerns were aired at the joint meeting and nothing was withheld. The Mayor said there were more people in attendance at that meeting than at regular council meetings.

Councilwoman Downing complimented the Mayor on his eloquent written statements and said this would reach only a small population. An official council statement would have more of an impact.

Councilman McKean made a motion, seconded by Councilman Hutchings, to adjourn this meeting at 9:45 A.M. to attend the scheduled Memorial Day services.

The council reconvened at 11:05 A.M.

Mayor Otis resumed the discussion by stating that the motion to schedule a special meeting for Tuesday evening is on the table.

Councilwoman Cunningham opposed this motion because the procedural problems overwhelm any benefits. She suggested discussing alternatives.

Councilman Hutchings said procedural problems should not stand in the way of anything that is in the best interest of the people of the City of Rye.

Councilman Stampleman suggested that each member of the council make a statement on this issue.

Councilwoman Larr said it is not in the purview of the city to interfere with the school board. Our concerns and comments were expressed at the joint meeting. She emphasized the demarcation between the city and the school board and the respect each should have for the other's boundaries.

Councilman McKean informed the council that his letter to Dr. Shine, members of the school board, and the city council explained that the New York State Board of Education has indicated that the responsibility for the SEQRA process belongs to the community. It is our right as a community to make our desires known. The school board should take back the lead agency status and recognize that we as a community, should have full input on this issue.

Councilwoman Cunningham agreed with Councilman McKean's statement. She said that at the joint meeting, the city felt that the school board should complete the long form SEQRA. The first step

should be the designation of the school board as lead agency and the declaration of any adverse impact that the proposed lights would have on the community. Councilwoman Cunningham said that the school board's agenda for Wednesday evening does not indicate anything about the SEQRA process.

Mayor Otis reemphasized that this issue was not an agenda item. In fairness to other individuals in the community and the five council members who attended the joint meeting, there were alternatives after that meeting to communicate views to the school board publicly. Expressing concerns and comments by writing to the school board and the public would be a viable alternative.

Mr. Drew Shea, president of the Rye Natural Light Association, strongly urged the council to affirm and formalize their comments and views made at the joint meeting. He said it is a very controversial and divisive issue which requires the council's leadership. Since it will have a significant impact, it is incumbent upon the council to make a formal statement.

Councilman Stampleman said he had forwarded letters to the superintendent of schools and the school board stating essentially the same views and concerns addressed at the joint meeting.

Councilwoman Cunningham said that the council made its feelings known at the joint meeting and that she still has environmental and aesthetic concerns about this issue. Although minutes were not taken at the joint meeting, she did not object to formalizing these statements for the record.

Councilwoman Downing supported Mr. Shea's position. She endorsed formalizing a council resolution stating its views in an advocacy position. She stated she felt strongly about these issues and said it is a mistake to have these lights in the Rye Historical District.

Councilman Hutchings said he respects the boundaries of the school board and the city's jurisdictions. However, the council has the right to make comments on issues that interfere with the community. It is his position that the installation of these lights will interfere with aesthetics and intrude on the life and environment of the community.

Councilman Stampleman reminded the council that the City of Rye is the only community in New York State that has kept control over U.S. 1 to preclude development along that strip. Having the lights at Nugent Stadium would be inconsistent with what the community has supported for many years.

Councilman McKean expressed the hope that the school board would not be swayed by an artificial deadline of June 6th and that they could consider the alternative of having the underground conduit installed during the restoration of the track.

Mayor Otis said that state law states that this issue is under the jurisdiction of the school board. He reiterated that the council spoke frankly and openly at the joint meeting. He opposed acting on this issue today because it is not open government, it is not full participation. There was an opportunity to discuss this issue at the May 17th meeting and that was not done.

Councilwoman Cunningham said the sense of the council's concerns are being recorded in this meeting's minutes.

Mayor Otis reiterated that this meeting was not a regular council meeting, the topic was not an agenda item, nor was it publicized to the entire community. This, he said, would limit the value of today's minutes because there would probably have been other voices. The Mayor called for a vote on Councilwoman Downing's motion to schedule a special meeting for Tuesday, May 30, 2000.

Councilwoman Downing withdrew her motion because there was no second to the motion. She disagreed with the Mayor's statement and emphasized that this has been an open meeting. She said she appreciated and is encouraged by the statements of the other council members in this public forum.

Councilwoman Downing made a motion to forward the comments and issues addressed at the April 8th joint meeting and the minutes of this meeting to the school board.

Councilman Stampleman suggested that today's minutes be circulated by e-mail tomorrow.

Mayor Otis said he would be more comfortable sending the Interim City Manager's notes rather than today's minutes. He also said there is the opportunity if anyone wants to send a letter to the school board to add to what has already been said. He suggested that council members can do that as individuals.

The Mayor said he didn't think a motion was necessary and was reluctant to take any action because it is not fair to the public.

Councilman McKean supported sending the notes of the joint meeting.

Councilwoman Downing referenced a letter which, in her estimation, was a good summary of the joint meeting.

Mayor Otis said that the minutes of this meeting will also reflect his comments about the limitations of the way this meeting has evolved and the lateness in process. He said we have to be concerned about the fairness of how we conduct public participation for these issues.

In response to Mr. Stephen Feeney's question about the purpose of this meeting, Mayor Otis clarified that the city council scheduled a special meeting for May 29, 2000 at its regular May 17, 2000 meeting. The purpose of this special meeting was to extend a moratorium having to do with city's right-of-way law. This was publicly noticed and legally constituted. One member of the council raised the issue about the stadium lights which was not a part of the agenda. We have been discussing this issue and no action has been taken.

After a brief discussion on whether or not official minutes were taken at the joint meeting, Councilwoman Downing withdrew her motion to forward the comments and issues addressed at the

April 8th joint meeting and the minutes of this meeting to the school board. Councilwoman Downing made a motion to request that the minutes of this meeting be submitted tomorrow.

Mayor Otis suggested that the clearest way to articulate anything to the school board is by letter. He said had the council discussed this months ago, we could have addressed how we should participate. The city council did participate fully in our joint meeting. At this late date, we all should be very careful, whether or not we vote on anything, and very respectful of the fact that there are flaws in doing this on Memorial Day.

Councilman McKean clarified that the school board will vote on Wednesday night on whether or not to accept a gift of the stadium lights.

Mayor Otis said the School Board either heard us or didn't hear us. The City Council does not control that vote. New York State Law does not give us jurisdiction to stand over the school board and say, "Did you listen to us?", vote that way. We have to be sensitive to the institutional format of these things. Despite that, he said, we have all been quite outspoken and that shouldn't be lost. For the folks who were here today in opposition to the lights, your biggest concern is not the process; it is the lights. He said he understood that because he, too, is concerned about the lights. However, he said how we do things is just as important as what we do.

Councilman Stampleman made a motion, seconded by Councilman Hutchings to request that Interim City Manager Bradbury and Superintendent of the Rye City Schools, Dr. Edward Shine exchange notes taken for the April 8th joint meeting.

ROLL CALL:

AYES: Mayor Otis, Councilmen Cunningham, Downing,
Hutchings, Larr, McKean, and Stampleman

NAYS: None

ABSENT: None

The motion carried.

4. Adjournment

There being no further business to discuss, Councilman Stampleman made a motion, seconded by Councilwoman Larr and unanimously carried, to adjourn the meeting at 11:40 A.M.

Respectfully submitted,

Alice K. Conrad
City Clerk